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9 **BEFORE THE**
10 **DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS**
11 **STATE OF CALIFORNIA**

12 **In the Matter of the Accusation Against:**

Case No. C 090813-09

13 **JEFFERY B. McKINNEY**
14 3864 East Gettysburg Avenue
15 Fresno, CA 93726

A C C U S A T I O N

16 **Residential Appraiser License No.**
17 **AL036932**

18 **Respondent.**

19 **Complainant alleges:**

20 **PARTIES**

21 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers
22 (Complainant) brings this Accusation solely in her official capacity as Acting Chief of
23 Enforcement for Complainant.

24 2. On or about September 6, 2006, the Director of the Office of Real Estate Appraisers
25 ("Director") issued Residential Appraiser license Number AL036932 to Jeffery B. McKinney
26 ("Respondent"). Respondent's real estate appraiser license was in full force and effect at all
27 times relevant to the charges brought herein. Respondent's real estate appraiser license expired
28 on April 7, 2011

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4. Code section 11313 requires OREA to adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of the Real Estate Appraisers' Licensing and Certification law.

FINES

6. Code section 11316, subdivision (a) states:

The director may assess a fine against a licensee, applicant for licensure, person who acts in a capacity that requires a license under this part, course provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation for violation of this part or any regulations adopted to carry out its purposes.

7. Code section 11319 states:

Notwithstanding any other provision of this code, the Uniform Standards of Professional Appraisal Practice constitute the minimum standard of conduct and performance for a licensee in any work or service performed that is addressed by those standards. If a licensee also is certified by the Board of Equalization, he or she shall follow the standards established by the Board of Equalization when fulfilling his or her responsibilities for assessment purposes.

8. Code section 11328 states:

To substantiate documentation of appraisal experience, or to facilitate the investigation of illegal or unethical activities by a licensee, applicant, or other person acting in the capacity that requires a license, that licensee, applicant or person shall, upon the request of the director, submit

1 copies of appraisals, or any work product which is addressed by the Uniform Standards of
2 Professional Appraisal Practice, and all supporting documentation and data to the office. This
3 material shall be confidential in accordance with the confidentiality provisions of the Uniform
4 Standards of Professional Appraisal Practice.

5 **COST RECOVERY**

6 9. Code section 11409, subdivision (a) states:

7 Except as otherwise provided by law, any order issued in resolution of a disciplinary
8 proceeding may direct a licensee, applicant for licensure, person who acts in a capacity that
9 requires a license under this part, course provider, applicant for course provider accreditation, or a
10 person who, or entity that, acts in a capacity that requires course provider accreditation found to
11 have committed a violation or violations of statutes or regulations relating to real estate appraiser
12 practice to pay a sum not to exceed the reasonable costs of investigation, enforcement, and
13 prosecution of the case.

14 **REGULATORY PROVISIONS**

15 10. The OREA regulations appear in Title 10, Chapter 6.5, section 3500 et seq., as
16 amended from time to time, of the California Code of Regulations (Regulation.)

17 11. Regulation section 3527, subdivision (a) states, in pertinent part:

18 (a) All applicants for and holders of a license...shall submit written notice to OREA
19 of any change to the following within 10 days on the Change Notification and Miscellaneous
20 Requests Form REA 3011 (Rev. 5/8/00), which is herein incorporated by reference:

- 21 (1) Name;
- 22 (2) Residence telephone number
- 23 (3) Business telephone number
- 24 (4) Residence Address
- 25 (5) Business name or address; or
- 26 (6) Mailing address.

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1 12. Regulation section 3701 states:

2 Every holder of a license under this part shall conform to and observe the Uniform
3 Standards of Professional Appraisal Practice (USPAP) and any subsequent amendments thereto
4 as promulgated by the Appraisal Standards Board of The Appraisal Foundation which standards
5 are herein incorporated into these regulations by reference as if fully set forth herein.

6 13. Regulation section 3702 (a) states, in pertinent part:

7 (a) The Director finds and declares as follows:

8 (1) That the profession of real estate appraisal is vested with a fiduciary
9 relationship of trust and confidence as to clients, lending institutions, and both public
10 and private guarantors or insurers of funds in federally-related real estate transactions
11 and that the qualifications of honesty, candor, integrity and trustworthiness are
12 directly and substantially related to and indispensable to the practice of the appraisal
13 profession ...

14 (3) Every holder of a license to practice real estate appraisal ...shall be
15 required to demonstrate by his or her conduct that he or she possesses the
16 qualifications of honesty, candor, integrity and trustworthiness.

17 14. Regulation section 3705 (a) states:

18 Every appraisal report subject to the Uniform Standards of Professional Appraisal
19 Practice upon final completion shall bear the signature and license number of the appraiser and
20 of the supervising appraiser, if appropriate. The affixing of such signature and number
21 constitute the acceptance by the appraiser and supervising appraiser of full and personal
22 responsibility for the accuracy, content, and integrity of the appraisal under Standards Rules 1
23 and 2 of USPAP.

24 15. Regulation 3721 states, in pertinent part:

25 (a) The Director may issue a citation, order of abatement, assess a fine or private or
26 public reproof, suspend or revoke any license or Certificate of Registration, and/or may deny the
27 issuance or renewal of a license or Certificate of Registration of any person or entity acting in a
28 capacity requiring a license or Certificate of Registration who has:

1 (6) Violated any provision of USPAP

2 (7) Violated any provision of the Real Estate Appraisers' Licensing and
3 Certification Law, Part 3 (commencing with Section 11300) of Division 4 of the
4 Business and Professions Code, or regulations promulgated pursuant thereto; or any
5 provision of the Business and Professions Code applicable to applicants for or
6 holders of licenses authorizing appraisals.

7 **UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)**
8 **(EFFECTIVE JANUARY 1, 2008)¹**

9 16. USPAP Standard 1 states:

10 In developing a real property appraisal, an appraiser must identify the problem to be
11 solved, determine the scope of work necessary to solve the problem, and correctly complete
12 research and analyses necessary to produce a credible appraisal.

13 17. USPAP Standard 2 states:

14 In reporting the results of a real property appraisal, an appraiser must communicate
15 each analysis, opinion, and conclusion in a manner that is not misleading.

16 18. The Ethics Rule of USPAP states, in pertinent part:

17 To promote and preserve the public trust inherent in professional appraisal practice,
18 an appraiser must observe the highest standards of professional ethics. ...
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20 **PROPERTY APPRAISED**

21 19. On May 28, 2009, Respondent completed a real estate appraisal report for property
22 located at 30 E. Conejo Avenue, Caruthers, California, with a concluded opinion of value at
23 \$250,000.00. The property consisted of a two units, one-story homes built in 1950. The first unit
24 contains 7 rooms, 4 bedrooms, 2 bathrooms with 1,804 square feet of living area. The second unit
25 contains 4 rooms, 2 bedrooms, 1 bathroom with 1,097 square feet of living area.

26
27 ¹ USPAP is periodically revised: appraisers are responsible for adherence to the edition of USPAP in effect as of the date of report
28 for an appraisal. The 2008-2009 edition of USPAP (effective January 1, 2008, through December 31, 2009), was applicable to the appraisal in this
case, which had a report date of May 28, 2009.

1 20. On or about August 10, 2009, Complainant received a request to initiate a
2 disciplinary action against Respondent regarding Respondent's appraisal of the property
3 described in paragraph 19, above.

4 **BASIS FOR DISCIPLINE**

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Failure to Respond or Cooperate in an Investigation of Alleged**
7 **Uniform Standards of Professional Appraisal Practice (USPAP) Violations – 30 East Conejo**
8 **Avenue, Caruthers, California)**

9 21. Respondent is subject to disciplinary action under Business and Professions Code
10 section 11328 for failing to cooperate with the investigation and provide a copy of the appraisal
11 report and associated workfile for the property located at 30 East Conejo Avenue, Caruthers,
12 California when requested to do so, as follows:

13 22. On October 5, 2009, Complainant sent a letter pursuant Code section 11328
14 requesting a copy of the appraisal and the appraisal work file, to be received by Complaint within
15 30 days of the date of the letter.

16 23. On December 3, 2009, Complainant attempted to contact Respondent by phone but
17 was unable to make direct contact with Respondent. Complainant left message stating our office
18 did not receive the requested documents within the specified period.

19 24. On January 4, 2010, Complainant resent letter by Certified Mail to Respondent's
20 address pursuant to Code section 11328 requesting a copy of the appraisal and the appraisal work
21 file, to be received by Complaint within 30 days of the date of the letter.

22 25. On January 12, 2010, Complainant received the return receipt from the letter, but
23 no information was submitted by Respondent within the specified period.

24 26. On April 14, 2010, Complainant attempted to contact Respondent at Respondent's
25 business telephone number of record (559) 312-4756, but was unable to make direct contact with
26 Respondent. The outgoing message stated that the voice mail box was invalid. Two attempts were
27 made to Respondent at the home telephone number of record (559) 455-8854. The phone rang
28 twice, followed by a busy signal.

27. On April 15, 2010, Complainant sent final demand letter indicating that failure to respond to this second request for documentation would be considered a continued violation of Code section 11328. In addition, this letter indicated that Respondent's appraisal license with OREA would be subject to disciplinary action, up to and including revocation, if Respondent failed to provide the information requested within 10 calendar days. This letter was sent via certified mail, return receipt requested, to Respondent's mailing address of record as provided to OREA by Respondent.

28. On April 29, 2010, Complainant received the return receipt from the final demand letter, but no information was submitted by Respondent within the specified period.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of the Office of Real Estate Appraisers issue a decision

1. Revoking or suspending Residential Appraiser License Number AL036932, issued to Jeffery B. McKinney.

2. Ordering Jeffery B. McKinney to pay the Director of the Office of Real Estate Appraisers a fine pursuant to section 11316(a); and

3. Taking such other and further action as deemed necessary and proper.

DATED: 22/11/2022

Original Signed

Elizabeth Seaters
Acting Chief of Enforcement
Office of Real Estate Appraisers
State of California
Complainant